



Civil Rights Compliance (CRC) in Service Delivery Training

Presented to:

Agency Heads - Directors, Equal Opportunity,
Language Access & Complaint Coordinators
2006

Welcome, Bienvenidos, Nyob Zoo,
Dobro Došli, добро пожаловать,
'So Dhowaada', Benvenuto,
Welkom, Bienvenue, Boa Vinda,
ببي حرت, Willkommen, Huan Ying



Introductions

AGENDA



- 8:30 Welcome and Introductions
- 8:35 Pretest
- 8:45 Defining Civil Rights and Discrimination
- 9:20 Define Accessibility
- 9:45 Ten Commandments of Communications with Persons with disabilities
- 10:10 Break - 10 Minute
- 10:20 Review of Roles and Responsibilities of Key Agency Staff
- 11:15 Complaint Process and Procedures
- 12:10 Lunch Break
- 1:00 Review Laws - Case Study and Scenarios
- 2:30 Break - 10 Minute
- 2:40 Case Studies and Scenarios
- 4:00 Questions and Answers
- 4:30 Close/End

Pretest





Training Objectives

- ▣ Define discrimination prohibited by federal laws applicable to vendors contractors and subcontractors
- ▣ Clarify the roles and responsibilities of Agency Heads (AH), Equal Opportunity Coordinators (EOC), Limited English Proficiency Coordinators (LEPC) and Compliant Coordinators (CC) in CRC
- ▣ Describe steps and processes for resolving customer complaints
- ▣ Analyze types of discriminatory practices through case studies of complaint

What is a Civil Right?



Charles Hamilton Houston

- A civil right is an enforceable right or privilege, which if interfered with by another gives rise to an action for injury
- Examples of civil rights:
 - Freedom of speech, press, assembly
 - Right to vote
 - Freedom from involuntary servitude (human trafficking)
 - Right to equality in public places

"Charles Hamilton Houston is the Moses of the journey that led to brown and beyond." Thurgood Marshall

Discrimination

- When the civil rights of an individual are denied or interfered with because of their membership in a particular group or class:

Rosa Parks

- › Race
- › Sex
- › Religion
- › Age
- › Previous condition of servitude
- › Physical limitation
- › National origin or sexual preference



FOUNDER OF CIVIL RIGHTS
"THE only thing that bothered me was that we waited so long to make this protest."
- Inducted: 1993 -

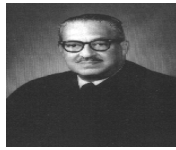
Title VI of the Civil Rights Act of 1964

...prohibits discrimination on the basis of "race, color, or national origin.... Under any program or activity receiving federal assistance"

42 U.S.C.: 2000d



Thurgood Marshall



Supreme Court Justice
Thurgood Marshall

Purpose of Title VI

- To ensure public funds are not spent in a way that encourages, subsidizes, or results in racial discrimination
- Title VI bars intentional discrimination



President Lyndon B. Johnson signing the Civil Rights Act on July 2, 1964

Title VI

- Authorizes and directs federal agencies to enact “rules, regulations, or orders of general applicability” to achieve the statute’s objectives 42 U.S.C. 2000d.
- Federal agency regulations prohibit:
 - “Using **criteria** or **methods** of administration that have the effect of discriminating against protected groups based on race, color or national origin.”

U.S. Supreme Court

...has held that such regulations may prohibit practices having a **disparate impact** on protected groups, whether or not the action or practices are intentionally discriminatory.



Intentional Discrimination and Disparate Treatment



Martin Luther King Jr., Dr Spock and Reverend Rice

- An intent claim alleges that similarly situated persons are treated differently because of their:
 - Race
 - Color or
 - National origin
- Retaliation is always investigated using the intent theory

Unintentional Discrimination and Disparate Impact

- Neutral policies or practices which disproportionately exclude or adversely affect protected classes;
 - Limited English Proficiency (LEP) complaints are generally investigated using this legal theory
 - Investigations focus on the consequences and do not require proof of discriminatory intent

Note: Reasons why data collection is very important for an agency as (1) monitoring device and (2) critical indicator to guide strategic planning

National Origin Discrimination

Services in Languages Other Than English

- Title VI bars utilization of criteria and methods of administration that have:
 - “the effect of defeating or substantially impairing accomplishment of program objectives with respect to individuals of a particular race, color or national origin.”
- Universal regulatory language incorporates a disparate impact standard into Title VI.



Meaningful Accessibility



- Equal opportunity and Physical accessibility to all:
 - Programs, services and activities
 - Ensuring effective, accurate, and meaningful communication orally and written form
 - Sign language interpreters
- ADA accommodations applicable to the public and private sector- Title II, Section 504, 503 of the Rehabilitation Act of 1973



Commandments

The Ten Commandments of Communicating
With People With Disabilities

Distributed by:

Program Development Associates

5620 Business Ave Suite B

Cicero, NY 13039

1-800-543-2119

www.pdassoc.com



Roles and Responsibilities for

Agency Head – Directors, Equal
Opportunity, Language Access
and Complaint Coordinators

AGENCY HEAD

Duties and Responsibilities





AGENCY HEAD

- Designates CRC staff functions
- Adopt policy and procedure as needed
- Establishes CRC priorities and allocates resources
- Monitors implementation of internal CRC program
- Reviews CRC annual self-evaluation, Oversees CRC of subcontractors & vendors

Equal Opportunity Coordinator

Duties and Responsibilities



Equal Opportunity Coordinator



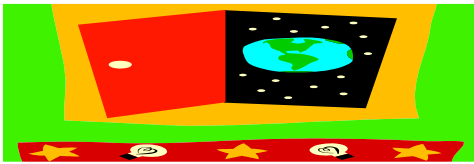
- Disseminates EO policies and procedures
 - Internally to all staff
 - Externally to customers, residents, patients, service providers and partners
- Conduct annual self-evaluation CRC program and reports to Agency Head
- Plans and executes EO and LEP functions together with LEPC
- Facilitates CRC staff training and Assess staff training needs

Equal Opportunity Coordinator



- May draft CRC Plan
- Monitors agency EO compliance
- May also handle complaints
- Facilitates provision of sign-language interpreters and other accommodations
- Monitors data collection
- Maintains EO files and confidential records
- Liaison between communities and funding sources





Limited English Proficiency Coordinator

Duties and Responsibilities

Limited English Proficiency Coordinator



- Develops and monitors the implementation of policies and procedures for:
 - ▶ Oral language assistance
 - ▶ Written translation of vital documents
- Ensures meaningful access to programs, services and activities by LEP customers
- Ensures data collection of LEP customer language needs
- Analyzes customer service language needs

Limited English Proficiency Coordinator

- Disseminates policies and procedures
 - Internally to all staff
 - Externally to consumers, residents, patients service providers and partner
- Posts policies and procedures in appropriate languages
- Handles language complaints
- Provides staff training
 - Policies and procedures
 - Methods for obtaining language assistance

Limited English Proficiency Coordinator



- Ensures entity comply with LEP and "Safe Harbor" guidelines
- Identifies, prioritizes and facilitates translation of entity's vital documents
- Oversees implementation of LEP program and sign language services
- Conducts annual self-evaluation
- Reports and meets annually with Agency Head

Executive Other 13166 and Limited English Proficiency

Applying the Four Factor Analysis to Meet Save Harbor Guidelines

Entity Obligations to Comply with Executive Order 13166

- Executive Order 13166 does not establish new requirements or obligations, it simply provides additional clarifications and recommitment to Title VI protections under national origin discrimination
- Recipients are required to take reasonable steps to ensure meaningful access to their programs and benefits by LEP speakers.
- While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment using the four factors analysis

Four Factor Analysis



- (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee
- (2) The frequency with which LEP individuals come in contact with the program, service
- (3) The nature and importance of the program, activity or service provided by the program to people's lives; and
- (4) The resources available to the grantee recipient, and costs.



Written Translations

- Vital documents: one size does not fit all

STAFF HARBOR GUIDELINES

- Translation of vital documents if service area has 5% or 1000 LEP customers per LEP language
- Notice of translated documents for less than 50 LEP speakers per language

Oral Interpretation

- ❑ Oral interpretation must be a available and free of cost
 - Face-to-face with bilingual staff
 - Competent interpreter
 - Language line
- ❑ Use competent interpreters, specially for critical situations

Who are Competent Interpreters?

- ❑ Bilingual in English and a second language;
- ❑ Linguistically and culturally competent

Who may Not be interpreters?

- ❑ Minor Children
- ❑ Family members or friends

The patient may turn down a provider's interpreter, but

- you must offer one regardless
- You are advised to have your interpreter present, especially in any critical and confidential situation or where highly technical terminology will be used

Complaint Coordinator

Duties and Responsibilities



Complaint Coordinator

- Handles EO and LEP complaints
- Acknowledges complaints within five-working days
- Completes investigation reports
- Respond within 90 days to complainant with findings



Complaint Coordinator



- Posts complaint policies and procedures in English and appropriate LEP languages
- Disseminates complaint policies and procedures internally
- Maintains complaint records confidentially by location and type

Morning Break 10 Minutes



Complaint Process and Requirements

(For State and Federal Agencies)

Two kinds of complaints:

- PROGRAM
- DISCRIMINATION

Complaint Process

Program complaints involve claims that folks operating the program

failed to observe the program's rules and procedures



Complaint Process

Applicants and participants must be given accurate and complete information on

the complaint process for program and discrimination complaints



Complaint Process

Discrimination may be examined from two perspectives:

- DISPARATE TREATMENT
- DISPARATE IMPACT



Complaint Process

Disparate treatment discrimination claims

assert that applicants and participants are treated differently for no other reason than race, sex, disability or status as a participant

Complaint Process

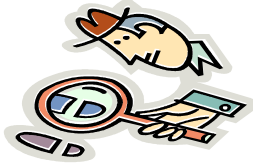
Disparate impact discrimination

asserts that broad patterns of discrimination operate to disadvantage protected class applicants and participants and that these patterns are measurable and significant

Standard of Proof

- The standard of proof in investigations under Title VI and similar non-discrimination statutes is:

preponderance of the evidence



Complaint Process



- DHHS - discrimination complaint procedures allow local processing of complaints
- USDA - discrimination complaint procedures allow state or federal level processing of complaints
- USDOL - allows no local processing of discrimination complaints. Must be file at the State or Federal level

Complaint Requirements

Procedures must be consistent with

federal and state statutes, regulations,
and guideline

Complaint Requirements

Procedures must be explained to
applicants and participants

posted prominently in places where one
might reasonably expect them to be seen
in languages of major LEP groups

Complaint Requirements

Applicants and participants must

be provided assistance in filing their
complaints



Complaint Requirements

Complaints must be referred or processed
in a timely manner

Grantees and Contractors
must keep records of complaints received
referred and resolved



Complaint Requirements

Complaints may be used as a basis to
determine whether

Grantees or Contractors will receive or
continue to receive federal financial
assistance



Complaint Requirements

Where can Complaints be filed?



DWD Division of Workforce Solutions
Equal Opportunity Officer or Equal Rights
Division

DHFS Office of Affirmative Action and
Civil Rights Compliance

Complaint Requirements Cont.

- U.S. Department of Health and Human Services - Office of Civil Rights - Region V, Chicago, IL.
- U.S. Department of Justice - Civil Rights Division - Washington, D.C.
- Food and Consumer Services - Civil Rights Program - U.S. Department of Agriculture - Chicago, IL.



Complaint Requirements Cont.

U.S. Department of Labor - Civil Rights Center
200 Constitution Avenue NW, Room N-4123
Washington, D.C. 20210





Federal - State Non-Discrimination Laws Case Studies

1 Hour Lunch Break



Greetings in:

- | | |
|----------------------------|-----------------------------|
| □ Hausa – Sanou | □ Amharic – Teanastellen |
| □ Zjerma – Fofo | □ Tigrinya – Selam |
| □ Spanish – Hola, Buen Dia | □ Aymara – Kamisarakki |
| □ Qechua – Imaynalla | □ Mina – Ofoan |
| □ Aymara – Kamisarakki | □ Kabye – N'louale |
| □ French – Bonjour | □ Kotokoli - Gnafinikaza |
| □ Djioulja – Ekakennewa | □ Nawdme – Reda hom? |
| □ Armenian – Barev | □ Bulgarian – Zdraveite |
| □ Arabic – Saalamu 'lekum | □ Mongolian – Sain baina uu |
| □ Chickewa – Moni | |



Federal - State Non-Discrimination Laws Case Studies

Afternoon Break 10 Minutes





Department of Workforce Development
Division of Workforce Solutions
Bureau of Division-wide Services
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Madison, WI 53707-7972
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Office of Affirmative Action and Civil Rights
Compliance

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Post-Test/Questions Answers



Thank you

*for your
Attention and Participation*
